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DEPARTMENT OF COMMERCE

International Trade Administration

(A-533-859, A-580-874, A-557-816, A-523-808, A-583-854, A-489-820, A-552-818)

Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**

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SUPPLEMENTARY INFORMATION:

The Petitions

On May 29, 2014, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam filed in proper form on behalf of Mid Continent Steel & Wire, Inc.

(Petitioner). The AD petitions were accompanied by seven countervailing duty (CVD) petitions.¹ Petitioner is a domestic producer of certain steel nails.²

On June 3, 2014, the Department requested additional information and clarification of certain areas of the Petitions.³ Petitioner filed responses to these requests on June 6, 2014,⁴ June 9, 2014,⁵ and June 10, 2014.⁶ On June 11, 2014, Petitioner filed revised calculations for Volume VIII of the Petitions (concerning Vietnam) as requested by the Department.⁷

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioner supporting its allegations.

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam, dated May 29, 2014 (Petitions).

² See Volume I of the Petitions, at Exhibit General-1.

³ See Letter from the Department to Petitioner entitled “Re: Petitions for the Imposition of Antidumping Duties on Imports of Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Supplemental Questions” dated June 3, 2014 (General Issues Supplemental Questionnaire), and Letters from the Department to Petitioner entitled “Petition for the Imposition of Antidumping Duties on Imports of Certain Steel Nails from {country}: Supplemental Questions” on each of the country-specific records, dated June 3, 2014.

⁴ See Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Petitioner’s Response to the Department’s June 3, 2014, Supplemental Questions on Volume I of the Petition, dated June 6, 2014 (General Issues Supplement), and Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Petitioner’s Response to the Department’s June 3, 2014 Supplemental Question on Volume {volume number} of the Petition, dated June 6, 2014 ({country} Supplement).

⁵ See Certain Steel Nails from Korea: Petitioner’s Response to the Department’s June 3, 2014 Supplemental Question on Volume III of the Petition, dated June 9, 2014 (Korea Supplement).

⁶ On June 10, 2014, we received revised declarations regarding pricing information obtained by Petitioner for India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam. See Certain Steel Nails from {country}: Submission of Foreign Market Researcher Declaration, dated June 10, 2014.

⁷ See Letter from Petitioner to the Department entitled “Re: Certain Steel Nails from the Socialist Republic {of} Vietnam: Petitioner’s Revised Calculations in Response to Department Instruction for Volume VIII of the Petition,” dated June 11, 2014.

The Department finds that Petitioner filed these Petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioner is requesting.⁸

Periods of Investigation

Because the Petitions were filed on May 29, 2014, the periods of investigation (POI) are, pursuant to 19 CFR 351.204(b)(1), as follows: April 1, 2013, through March 31, 2014, for India, Korea, Malaysia, Oman, Taiwan, and Turkey, and October 1, 2013, through March 31, 2014, for Vietnam.

Scope of the Investigations

The product covered by these investigations is certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.⁹

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (“scope”). The period for scope comments is intended to provide the Department with ample opportunity to consider all

⁸ *See* the “Determination of Industry Support for the Petitions” section below.

⁹ *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement; *see also* Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Petitioner’s Revised Scope Description in Response to Department Direction (Scope Supplement to the Petition), dated June 13, 2014.

comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Daylight Time (EDT) on July 8, 2014, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. EDT on July 18, 2014, which is 10 calendar days after the initial comments.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).¹⁰ An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of certain steel nails to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe certain steel nails, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 P.M. EDT on July 8, 2014, which is twenty calendar days from the signature date of this notice. Any rebuttal comments must be

filed by 5:00 P.M. EDT on July 15, 2014. All comments and submissions to the Department must be filed electronically using IA ACCESS, as explained above, on the records of the India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In

addition, the Department's determination is subject to limitations of time and information.

Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹¹

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of these investigations. Based on our analysis of the information submitted on the record, we have determined that certain steel nails constitute a single domestic like product and we analyzed industry support in terms of that domestic like product.¹²

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in Appendix I of this notice. To

¹¹ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

¹² For a discussion of the domestic like product analysis in these investigations, see Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from India (India AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from Malaysia (Malaysia AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from the Sultanate of Oman (Oman AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from Taiwan (Taiwan AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from the Republic of Turkey (Turkey AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from the Socialist Republic of Vietnam (Vietnam AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

establish industry support, Petitioner provided its own production of the domestic like product in 2013, as well as the 2013 production of companies that support the Petitions.¹³ Petitioner compared the total production of itself and supporters of the Petitions to the estimated total production of the domestic like product for the entire domestic industry.¹⁴ Petitioner estimated 2013 production of the domestic like product by non-petitioning companies based on its knowledge of the industry and the production capabilities and market shares of U.S. producers.¹⁵ We have relied upon data Petitioner provided for purposes of measuring industry support.¹⁶

Based on information provided in the Petitions, supplemental submissions, and other information readily available to the Department, we determine that Petitioner has met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.¹⁷ Based on information provided in the Petitions, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.¹⁸

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has

¹³ See Volume I of the Petitions, at 5 and Exhibit General-1.

¹⁴ *Id.*, at Exhibit General-1; see also General Issues Supplement, at 7 and Exhibit General Supp-4.

¹⁵ *Id.*

¹⁶ See India AD Initiation Checklist, Korea AD Initiation Checklist, Malaysia AD Initiation Checklist, Oman AD Initiation Checklist, Taiwan AD Initiation Checklist, Turkey AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment II.

¹⁷ *Id.*

¹⁸ *Id.*

demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department initiate.¹⁹

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value (NV). In addition, with regard to Korea, Malaysia, Oman, Taiwan, and Vietnam, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁰ With regard to India and Turkey, while the allegedly dumped imports from these two countries do not exceed the statutory requirements for negligibility, Petitioner alleges and provides supporting evidence that these imports will imminently exceed the negligibility threshold and, therefore, are not negligible.²¹ Petitioner's arguments are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; underutilized capacity; shut downs and plant closures; reduced employment; and reduced profitability.²² We have assessed the allegations and supporting evidence regarding material injury, threat of

¹⁹ *Id.*

²⁰ See Volume I of the Petitions at 29 and Exhibit Injury-5.

²¹ *Id.* at 29-32 and Exhibits Injury-2, Injury-5, Injury-6 and Injury-8 through Injury-13.

²² See Volume I of the Petitions, at 13-58 and Exhibits General-6 and Injury-1 through Injury-26; *see also* General Issues Supplement, at 1 and Exhibit General Supp-1.

material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²³

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For India, Korea, Oman, Taiwan, and Vietnam, Petitioner based U.S. price on a resale price from a U.S. distributor/trading company to its downstream customers in the United States.²⁴

For Turkey, Petitioner based U.S. price on price quotes for subject merchandise produced in Turkey by a producer of certain steel nails in that country and sold directly to a large distributor in the United States.²⁵

For Malaysia, Petitioner based U.S. price on price quotes for subject merchandise produced in Malaysia by producer(s) of certain steel nails in that country and sold directly to a distributor in the United States as well as on a resale price from a U.S. distributor/trading company to its downstream customers in the United States.²⁶

²³ See India AD Initiation Checklist, Korea AD Initiation Checklist, Malaysia AD Initiation Checklist, Oman AD Initiation Checklist, Taiwan AD Initiation Checklist, Turkey AD Initiation Checklist, and Vietnam AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam.

²⁴ See India AD Initiation Checklist, Korea AD Initiation Checklist, Oman AD Initiation Checklist, Taiwan AD Initiation Checklist, and Vietnam AD Initiation Checklist.

²⁵ See Turkey AD Initiation Checklist.

²⁶ See Malaysia AD Initiation Checklist.

Petitioner obtained these price quotes from persons who directly received this information.²⁷

For India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam, Petitioner made deductions for movement and other expenses consistent with the sales and delivery terms of the price quotes.²⁸ For India, Korea, Malaysia, Oman, Taiwan, and Vietnam, Petitioner additionally adjusted the quoted U.S. prices for mark-ups from the distributors/trading companies.²⁹ Petitioner made no other adjustments to U.S. price.

Normal Value

For India, Korea, Malaysia, and Turkey, Petitioner based NV on price quotes provided for the foreign like product produced in the subject country by producer(s) of certain steel nails in that country and sold or offered for sale in the subject country by producer(s) and/or traders of certain steel nails.³⁰

For Taiwan and Oman, Petitioner was unable to obtain home-market or third-country prices; accordingly, Petitioner based NV on constructed value (CV).³¹

For India, Korea, Malaysia, and Turkey, Petitioner made deductions for movement expenses consistent with the terms of delivery.³²

With respect to Vietnam, Petitioner states that the Department has long treated it as a non-market-economy (NME) country.³³ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. As the

²⁷ See India AD Initiation Checklist, Korea AD Initiation Checklist, Malaysia AD Initiation Checklist, Oman AD Initiation Checklist, Taiwan AD Initiation Checklist, Turkey AD Initiation Checklist, and Vietnam AD Initiation Checklist.

²⁸ *Id.*

²⁹ *Id.*

³⁰ See India AD Initiation Checklist, Korea AD Initiation Checklist, Malaysia AD Initiation Checklist, and Turkey AD Initiation Checklist.

³¹ See Oman AD Initiation Checklist and Taiwan AD Initiation Checklist.

³² See Korea AD Initiation Checklist, Malaysia AD Initiation Checklist, and Turkey AD Initiation Checklist.

³³ See Volume VIII of the Petition, at 11.

presumption of NME status for Vietnam has not been revoked by the Department, it remains in effect for purposes of the initiation of the investigation of certain steel nails from Vietnam. Accordingly, the NV of the product is appropriately based on factors of production (FOPs), valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of Vietnam's NME status and the granting of separate rates to individual exporters.

Petitioner claims that India is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of Vietnam, it is a significant producer of comparable merchandise, and the data for valuing FOPs are both available and reliable.³⁴

Based on the information provided by Petitioner, we believe it is appropriate to use India as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate-country selection and will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.³⁵

Factors of Production

Petitioner based the FOPs for materials, labor, and energy on the product-specific consumption rates of a non-Vietnamese producer of nail products, as it had no access to the consumption rates of a Vietnamese producer of certain steel nails.³⁶ Petitioner asserts that the experience of this producer is appropriate for comparison to Vietnamese certain steel nails

³⁴ *Id.* at 12.

³⁵ See 19 CFR 351.301(c)(3)(i). Note that this is the revised regulation published on April 1, 2013. See <http://www.gpo.gov/fdsys/pkg/CFR-2013-title19-vol3/html/CFR-2013-title19-vol3.htm>.

³⁶ See Volume VIII of the Petition, at 13 and Exhibit Vietnam AD-13

producers because this producer manufactures comparable merchandise.³⁷

Valuation of Raw Materials

Petitioner valued the FOP for carbon steel wire rod (*i.e.*, the primary raw material used to produce the subject merchandise) using price data published in *Steel Insights*.³⁸ For all other raw materials, including wire rod scrap and packing materials, Petitioner relied upon Indian import statistics published by *Global Trade Atlas* for the period from August 2013 through January 2014, the most POI-contemporaneous 6-month period of data available.³⁹ In its calculations of surrogate values based on these data, Petitioner excluded all import data from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country.

Valuation of Labor

Petitioner calculated labor for wire-drawing and nail production using industry-specific wage rates for India from the *Yearbook of Labor Statistics*, a labor database compiled by the International Labor Organization.⁴⁰ Petitioner adjusted these rates, which date from 2005, for inflation using the Consumer Price Index for India, published in the International Monetary Fund's *International Financial Statistics*.⁴¹

Valuation of Energy and Water

Petitioner valued electricity based on data, dated no later than March 2008 and pertaining

³⁷ *Id.*

³⁸ See Volume VIII of the Petition at 15 through 16 and Exhibit Vietnam AD-16. *Steel Insights* is an Indian monthly publication of steel prices issued by the Joint Plant Committee, Kolkata.

³⁹ *Id.* at 15 through 16 and Exhibit Vietnam AD-15.

⁴⁰ *Id.* at 16 through 17 and Exhibit Vietnam AD-18.

⁴¹ *Id.*

to industrial users, from the Central Electricity Authority of the Government of India.⁴² In keeping with the Department's methodology in *Certain Oil Country Tubular Goods From Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 79 FR 10478 (February 25, 2014), Petitioner did not adjust these data for inflation because the rates listed in the source became effective on a variety of dates.⁴³ Petitioner valued natural gas based on a rate obtained from the International Energy Agency's 2010 working paper entitled "Natural Gas in India."⁴⁴

Petitioner valued water based on data pertaining to Indian industrial users from the Maharashtra Industrial Development Corporation (MIDC). From the MIDC's website, Petitioner was able to confirm that the rates in effect in April 2011 remained in effect as of May 2014.⁴⁵

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioner calculated surrogate financial ratios (*i.e.*, manufacturing overhead, selling, general and administrative (SG&A) expenses, and profit) using the 2012-2013 audited, consolidated financial statement of Sundram Fasteners Ltd. (Sundram), an Indian producer of comparable merchandise (*i.e.*, steel fasteners), which is produced utilizing similar methods to those used to produce certain steel nails and which serve the same purpose of holding together two or more different materials.⁴⁶ Petitioner noted that Sundram's financial statement is a publicly-available source and that this company's financial information has been relied upon by the Department in previous NME proceedings involving certain steel nails.⁴⁷

⁴² See Volume VIII of the Petition at 17-18 and Exhibit Vietnam AD-19.

⁴³ *Id.* at 17 through 18 and Exhibit Vietnam AD-19.

⁴⁴ *Id.*, at 18 and Exhibit Vietnam AD-19.

⁴⁵ *Id.* at 18 through 19 and Exhibit Vietnam AD-19.

⁴⁶ *Id.* at 20 through 22 and Exhibit Vietnam AD-20.

⁴⁷ *Id.* at 21.

Normal Value Based on Constructed Value

For Oman and Taiwan, Petitioner based NV on CV, as neither a home market nor a third country price was reasonably available. Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM); SG&A expenses; financial expenses; packing expenses; and profit.

For Oman, Petitioner calculated COM (except for labor and depreciation) based on the experience of a surrogate producer of nails, adjusted for known differences between the surrogate producer and the industry of Oman, during the proposed POI. Petitioner multiplied the surrogate producer's usage quantities by publicly-available data to value the inputs used to manufacture certain steel nails in Oman.⁴⁸ To determine labor, depreciation, SG&A, financial expenses, and profit rates, Petitioner relied on financial statements of producers of comparable merchandise operating in Oman.⁴⁹

For Taiwan, Petitioner calculated COM (except for depreciation) based on the experience of a surrogate producer of nails, adjusted for known differences between the surrogate producer and the industry of Taiwan, during the proposed POI. Petitioner multiplied the surrogate producer's usage quantities by publicly-available data to value the inputs used to manufacture certain steel nails in Taiwan.⁵⁰ To determine depreciation, SG&A, financial expenses, and profit rates, Petitioner relied on financial statements of a producer of comparable merchandise operating in Taiwan.⁵¹

⁴⁸ See Oman AD Initiation Checklist.

⁴⁹ *Id.*

⁵⁰ See Taiwan AD Initiation Checklist.

⁵¹ *Id.*

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price (EP) to NV in accordance with section 773(a) of the Act, the estimated dumping margin(s) for certain steel nails from: 1) India range from 450.96 percent to 589.78 percent;⁵² 2) Korea range from 57.07 percent to 61.09 percent;⁵³ 3) Malaysia range from 27.86 percent to 39.35 percent;⁵⁴ 4) Oman is 154.33 percent;⁵⁵ 5) Taiwan is 78.17;⁵⁶ and 6) Turkey range from 41.19 percent to 115.56 percent.⁵⁷ Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for certain steel nails from Vietnam is 323.99 percent.⁵⁸

Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions on certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

⁵² See India AD Initiation Checklist.

⁵³ See Korea AD Initiation Checklist.

⁵⁴ See Malaysia AD Initiation Checklist.

⁵⁵ See Oman AD Initiation Checklist.

⁵⁶ See Taiwan AD Initiation Checklist.

⁵⁷ See Turkey AD Initiation Checklist.

⁵⁸ See Vietnam AD Initiation Checklist.

Respondent Selection

Petitioner named 22 companies as producers/exporters of certain steel nails from India, 40 from Korea, 44 from Malaysia, 7 from Oman, 135 from Taiwan, and 12 from Turkey.⁵⁹ Following standard practice in AD investigations involving market-economy countries, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of certain steel nails under Harmonized Tariff Schedule of the United States (HTSUS) numbers: 7317.00.55.02; 7317.00.55.03; 7317.00.55.05; 7317.00.55.07; 7317.00.55.08; 7317.00.55.11; 7317.00.55.18; 7317.00.55.19; 7317.00.55.20; 7317.00.55.30; 7317.00.55.40; 7317.00.55.50; 7317.00.55.60; 7317.00.55.70; 7317.00.55.80; 7317.00.55.90; 7317.00.65.30; 7317.00.65.60; and 7317.00.75.00.⁶⁰ For India, Korea, Malaysia, Oman, Taiwan, and Turkey, we intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five-business days of publication of this *Federal Register* notice. The Department invites comments regarding respondent selection within seven days of publication of this *Federal Register* notice.

With respect to Vietnam, Petitioner identified 15 potential respondents.⁶¹ In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value questionnaires to each potential respondent and base respondent selection on the responses received. In addition, the Department will post the quantity-and-value questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

⁵⁹ See the Petitions at Volume I, Exhibit General-5.

⁶⁰ We note that HTSUS number 7317.00.55.01 covers merchandise excluded from the scope of these investigations. Therefore, we will not rely upon imports under this HTSUS number in our respondent selection analyses.

⁶¹ See the Petitions at Volume I, Exhibit General-5.

Exporters/producers of certain steel nails from Vietnam that do not receive quantity-and-value questionnaires by mail may still submit a quantity and value response and can obtain a copy from the Enforcement and Compliance website. The quantity-and-value questionnaire must be submitted by all Vietnam exporters/producers no later than July 2, 2014, which is two-weeks from the signature date of this notice. All quantity-and-value questionnaires must be filed electronically *via* IA ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁶² The specific requirements for submitting a separate-rate application in the Vietnam investigation are outlined in detail in the application itself, which is available on the Department's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate application and have been selected as mandatory respondents, these exporters and producers will only be eligible for consideration for separate-rate status when they respond to all parts of the questionnaire as mandatory respondents. The Department requires that respondents from Vietnam submit a response to both the quantity-and-value questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

⁶² See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁶³

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam *via* IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of certain steel nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam are materially injuring or threatening material injury to a U.S. industry.⁶⁴ A negative ITC determination for any country will result in

⁶³ See Policy Bulletin 05.1 at 6 (emphasis added).

⁶⁴ See section 733(a) of the Act.

the investigation being terminated with respect to that country;⁶⁵ otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to these investigations. Review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt> prior to submitting factual information in these investigations.

⁶⁵ *Id.*

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in AD and CVD proceedings.⁶⁶ The modification clarifies that parties may request an extension of time limits before a time limit established under 19 CFR 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 19 CFR 351.408(c) or to measure the adequacy of remuneration under section 19 CFR 351.511(a)(2) filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) quantity-and-value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review *Extension of Time Limits; Final Rule*, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to

⁶⁶ See *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013).

submitting factual information in this segment.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁷ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶⁸ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

⁶⁷ See section 782(b) of the Act.

⁶⁸ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

This notice is issued and published pursuant to section 777(i) of the Act.

Ronald Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Dated: June 18, 2014.

Appendix I

Scope of the Investigations

The merchandise covered by these investigations is certain steel nails having a nominal shaft length not exceeding 12 inches.⁶⁹ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25.

Excluded from the scope of these investigations are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25.

Also excluded from the scope of these investigations are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of these investigations are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of these investigations are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of these investigations are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of these investigations are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

⁶⁹ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

Certain steel nails subject to these investigations are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to these investigations also may be classified under HTSUS subheading 8206.00.00.00.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

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